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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,794 7590	03/09/2001 01/29/2004	Toshiyuki Fukushima	YAMAP0755US	8297
			EXAMINER	
			BATTAGLIA, MICHAEL V	
			ART UNIT	PAPER NUMBER
			2652	

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DATE MAILED: 01/29/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/802,794	FUKUSHIMA ET AL.
	Examiner	Art Unit
	Michael V Battaglia	2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 March 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-77 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-77 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to an information recording medium having segmented areas, classified in class 369, subclass 275.3.
 - II. Claims 10-13, drawn to an information recording medium having temperature range indicative information, classified in class 369, subclass 275.3.
 - III. Claims 14-25 and 46-57, drawn to an information recording and reproducing apparatus and method including indicating a segmented target area and recording based on a condition, classified in class 369, subclass 59.25.
 - IV. Claims 26-32 and 58-64, drawn to an information recording and reproducing apparatus and method including measuring an apparatus temperature and recording based on a condition, classified in class 369, subclass 53.18.
 - V. Claims 33-45 and 65-77, drawn to an information recording and reproducing apparatus and method including a first condition presence, a second condition presence, calculating a first condition, and recording based on the second condition, classified in class 369, subclass 53.11.

In an effort to reduce the complexity and increase the clarity of the restriction, the examiner has listed groups of claims that are not patentably distinct as separate inventions. The following inventions are not patentably distinct:

2. Inventions I and III are not patentably distinct. Selection of either invention will result in examination of both inventions.

3. Inventions II and IV are not patentably distinct. Selection of either invention will result in examination of both inventions.

The following inventions are distinct, each from the other because of the following reasons:

4. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as an information recording medium providing a temperature range indicating a range of ambient temperatures of an information recording medium having one recording area. See MPEP § 806.05(d).

5. Inventions IV and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the apparatus and method of invention IV do not require an information recording medium having a data area that is divided into a plurality of segmented areas in a radial direction of the information recording medium. The subcombination has separate utility such as an information recording medium used by/in an apparatus/method that uses a measurement other than measurement of an apparatus temperature, such as apparatus humidity.

6. Inventions V and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the

apparatus and method of invention V do not require an information recording medium having a data area that is divided into a plurality of segmented areas in a radial direction of the information recording medium, rather the apparatus and method could be used with a medium having only one recording area. The subcombination has separate utility such as an information recording medium used by/in an apparatus/method that does not calculate a first recording reproduction condition using a second recording reproduction condition in a predetermined formula.

7. Inventions III and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the apparatus and method of invention III do not require an information recording medium having a temperature range indicating a range of ambient temperatures of the information recording medium, rather humidity could be indicated. The subcombination has separate utility such as an information recording medium used by/in an apparatus/method that does not obtain a recording and reproduction condition corresponding to an indicated target segment area, rather only one recording area.

8. Inventions V and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the apparatus and method of invention V do not require an information recording medium having a

temperature range indicating a range of ambient temperatures of the information recording medium, rather humidity could be indicated. The subcombination has separate utility such as an information recording medium used by/in an apparatus/method that does not calculate a first recording reproduction condition using a second recording reproduction condition in a predetermined formula.

9. Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as an information recording and reproducing apparatus and method that measures an apparatus humidity. See MPEP § 806.05(d).

10. Inventions V and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the apparatus and method of invention V do not require obtaining a recording and reproduction condition corresponding to an indicated target segment area, rather only one recording area could be used. The subcombination has separate utility such as an information recording and reproducing apparatus and method that obtains a recording and reproduction condition relative to humidity corresponding to an indicated target segment area.

11. Inventions V and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has

utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the apparatus and method of invention V do not require measuring an apparatus temperature, rather humidity could be measured. The subcombination has separate utility such as an information recording and reproducing apparatus and method that measures an apparatus temperature directly without using a formula.

12. Because inventions I and II are distinct for the reasons given above and the search required for Group II in class 369/53.18 is not required for Group I, restriction for examination purposes as indicated is proper.

13. Because inventions III-V are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

14. A telephone call was not made to request an oral election to the above restriction requirement due to the complexity of the restriction.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

15. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V Battaglia whose telephone number is (703) 305-4534. The examiner can normally be reached on 5-4/9 Plan with 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Michael Battaglia

Michael Battaglia

W. R. Young
W. R. YOUNG
PRIMARY EXAMINER